

IN RE: PETITION FOR ZONING VARIANCE
NW/4 Eastbrook Avenue, 276' NE
of the c/l of Pembroke Road
(7028 Eastbrook Avenue)
12th Election District
7th Councilmanic District
Michael J. Cassizzi, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-62-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a side yard setback of 3.5 feet in lieu of the required minimum of 10 feet for an existing shed in accordance with Petitioner's Exhibit 1.

The Petitioners, by Michael J. Cassizzi, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 7028 Eastbrook Avenue, consists of 2,633 sq.ft. and is improved with a single family end-of-group townhome which has been Petitioners' residence for the past 12 years. Mr. Cassizzi testified that he obtained a building permit in 1985 for an addition to the rear of the subject dwelling and a side entrance consisting of stairs and a platform. Petitioner testified he replaced the side entrance last year with a 6' x 12' open deck and trellis under the assumption that the 1985 permit would allow such a replacement structure. Further testimony indicated Petitioner commenced construction of a shed on the side of the dwelling in the "dead space" behind the subject deck. Mr. Cassizzi testified that he believed no permit was required as nearly all the other end-of-group homes in his development had sheds on the side of the dwelling. Testimony indicated Petitioner ran out of money prior to completing construction of the shed and waited for income tax refund money to finish the shed with aluminum siding to match the house.

Petitioner testified that as a result of a complaint filed regarding the shed, an inspection of the property by a Building Inspector resulted in two stop work orders being issued for both the deck and the shed. Mr. Cassizzi testified that after consulting with the Zoning Office, he was advised that the subject deck was permitted pursuant to zoning regulations concerning open air structures on dwellings built prior to 1953. However, Petitioner was advised to file the instant Petition in order to legalize the shed. Mr. Cassizzi testified a denial of the variance will create practical difficulty and unreasonable hardship for him and indicated that he built the shed in good faith. Further, he testified that the shed could not be placed in the rear yard as there is an existing concrete parking pad which provides off-street parking for Petitioners' vehicles. Testimony indicated the granting of the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18th day of October, 1990 that the Petition for Zoning Variance to permit a side yard setback of 3.5 feet in lieu of the minimum required 10 feet for an existing shed, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The existing deck on the side of the dwelling shall remain open and not be enclosed.

JRH:bjs

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3533
J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Michael J. Cassizzi
7028 Eastbrook Avenue
Baltimore, Maryland 21224

RE: PETITION FOR ZONING VARIANCE
NW/4 Eastbrook Avenue, 276' NE of the c/l of Pembroke Road
(7028 Eastbrook Avenue)
12th Election District - 7th Councilmanic District
Michael J. Cassizzi, et ux - Petitioners
Case No. 91-62-A

Dear Mr. & Mrs. Cassizzi:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: People's Counsel

File

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-62-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B (VI.C.3) 1952 To permit a 3.5 ft. side setback in lieu of the required 10 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- the space on which the shed was built is located in the dead space on the side of the house behind the deck
- no other practical or reasonable use of this property space can be made
- approval can be granted without any effect to public health, safety, and general welfare
- shed was built in good faith not aware of any zoning laws (Please see attached letter)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day

of _____ 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock

_____ M.

ESTIMATED LENGTH OF HEARING - 1/2HR. - 1HR. Zoning Commissioner of Baltimore County.

AVAILABLE FOR HEARING MON., TUES., WED. - NEXT TWO MONTHS (over)

ALL DATE OTHER DATE 7/18

REVIEWED BY: _____

ZONING DESCRIPTION

Beginning at a point on the north side of Eastbrook Avenue which is 60' wide at the distance of 276' east of the centerline of the nearest improved intersecting street Pembroke Boulevard which is 60' wide. *Being Lot #56, Block 1, Section #3 in the subdivision of Eastwood as recorded in Baltimore County Plat Book #A, Folio #33, containing 2,633 square feet. Also known as 7028 Eastbrook Avenue and located in the #12 Election District.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date 7/19/90

	QTY	PRICE
PUBLIC HEARING FEES	1 X	\$35.00
010 - ZONING VARIANCE (1RL)	1 X	\$35.00
LAST NAME OF OWNER: CASSIZZI		TOTAL: \$35.00

Account: R-001-6150
Number

H9100025

04A04#0093MCHRC \$35.00
BA C010*31AM07-19-90

Please make checks payable to: Baltimore County

Cashier Validation:

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Townson, Maryland

District 12th Date of Posting 9/18/90
Posted for Variance
Petitioner: Michael J. Cassizzi, et ux
Location of property: NW/4 Eastbrook Ave, 276' NE of Pembroke Rd, 7028 Eastbrook Ave
Location of Sign: Eastbrook Ave, across from subject property
Remarks: Property of Baltimore
Posted by Michael J. Cassizzi Date of return: 9/18/90
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 9-19 1990
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9-12, 1990

THE JEFFERSONIAN.

S. Zebe Orlean
Publisher

\$ 42.70

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
P. O. Box 8936
Dundalk, Md. 21222

September 13, 19 90

THIS IS TO CERTIFY, that the annexed advertisement of Baltimore County Zoning Office - Notice of Hearing - Case #91-62-A - P.O. #0107586 - Reg. #M46047 - was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for One successive weeks before the 14th day of September 1990; that is to say the same was inserted in the issues of September 13, 1990.

Kimbel Publication, Inc.
per Publisher.

By *Kimbel Belke*

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

M9100310

Date 10/11/90

	QTY	PRICE
PUBLIC HEARING FEES	1 X	\$104.70
080 - POSTING SIGNS / ADVERTISING	1 X	\$104.70
LAST NAME OF OWNER: CASSIZZI		TOTAL: \$104.70

91-62

04A04#0093MCHRC \$104.70
BA C001*37M10-12-90

Please make checks payable to: Baltimore County

Cashier Validation:

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 8/16/90



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Michael J. Cassizzi
7028 Eastbrook Avenue
Baltimore, Maryland 21224

Re: Petition for Zoning Variance
CASE NUMBER: 91-62-A
NW/5 Eastbrook Avenue, 276' NE of c/l of Pembroke Blvd.
7028 Eastbrook Avenue
12th Election District - 7th Councilmanic
Petitioner(s): Michael J. Cassizzi, et ux
HEARING: FRIDAY, OCTOBER 12, 1990 at 2:00 p.m.

Dear Petitioners:

Please be advised that \$ 207.75 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

August 13, 1990



Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance
CASE NUMBER: 91-62-A
NW/5 Eastbrook Avenue, 276' NE of c/l of Pembroke Blvd.
7028 Eastbrook Avenue
12th Election District - 7th Councilmanic
Petitioner(s): Michael J. Cassizzi, et ux
HEARING: FRIDAY, OCTOBER 12, 1990 at 2:00 p.m.

Variance to permit a 3.5 ft. side setback in lieu of the required 10 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Cassizzi, et ux

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

October 1, 1990



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Michael J. Cassizzi
7028 Eastbrook Avenue
Baltimore, MD 21224

RE: Item No. 23, Case No. 91-62-A
Petitioner: Michael J. Cassizzi
Petition for Zoning Variance

Dear Mr. & Mrs. Cassizzi:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: August 6, 1990

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Michael J. Cassizzi, Item No. 23

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

ITEM23/ZAC1

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building
Towson, Maryland 21204
(301) 887-3554

August 10, 1990



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 11, 13, 15, 16, 17, 18, 20, 22, 23, 24, 25, 28, and 29.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvw

RECEIVED
AUG 20 1990
ZONING OFFICE

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500

Paul H. Reincke
Chief

July 30, 1990



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: MICHAEL J. CASSIZZI

Location: #7028 EASTBROOK AVENUE

Item No.: 23 Zoning Agenda: AUGUST 7, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Capt. Jeffery Long* 7.30.90 Noted and Approved *Captain W. F. Brad, Jr.*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

AUG 9 1990

TO: J. ROBERT HAINES, ZONING COMMISSIONER, DEPARTMENT ZONING

FROM: CHARLES E. BURNHAM, PLANS REVIEW CHIEF, DEPARTMENT OF PERMITS & LICENSES

SUBJECT: ZONING ITEM #: 23
PROPERTY OWNER:
LOCATION:

ELECTION DISTRICT:
COUNCILMANIC DISTRICT:

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

() PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.01.07, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

() PARKING LOCATION () RAMPS (degree slope)
() NUMBER PARKING SPACES () CURB CUTS
() BUILDING ACCESS () SIGNAGE

() PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.

(X) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.

() A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 101.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.

() STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 516.0 COUNCIL BILL #158-88 (BALTIMORE COUNTY BUILDING CODE).

OTHER -

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

CHECK ITEM APPLICABLE TO THIS PLAN

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: August 9, 1990
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for August 7, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 11, 15, 16, 17, 18, 20, 24, 25, and 28.

For Item 13, water and sewer are available to the site. The Developer is responsible for extension of the paved road to the proposed lot with an 18-foot open paving section, ending with a 40-foot x 50-foot turnaround area and any drainage structures required.

For Item 22, water and sewer are available to the site. No public improvements are required.

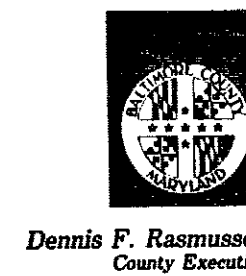
For Item 29, the 5-foot utility easement along the west lot line of Lot III is a County easement, and as such, no permanent structures are allowed within the easement area.

Robert W. Bowling, P.E., Chief
Developers Engineering Division

RWB:s

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

July 23, 1990



Mr. Michael J. Cassizzi
7028 Eastbrook Avenue
Baltimore, Maryland 21224

RE: Item No. 23

Dear Mr. Cassizzi:

I am in receipt of your letter dated July 10, 1990.

Please be advised that your Petition for Zoning Variance has been filed and is known as Item No. 23. Normally a case takes approximately 90 days for a public hearing on the variance. I have directed my staff to inform you as soon as possible of the date of the hearing for your zoning variance.

Thank you.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mm
cc: case file

Item #23

7028 Eastbrook Avenue
Baltimore, Maryland 21224
July 10, 1990

Mr. J. Robert Haines
Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Commissioner Haines:

My name is Michael J. Cassizzi and I reside at 7028 Eastbrook Avenue which is in the Eastwood Sub-division of Baltimore County. I have lived there for the past 12 years and take great pride in my home and all the renovations my wife and I have accomplished.

I am writing you at the advice of Mr. Carl Richards, who has been very helpful to me in resolving some zoning concerns so that I may obtain the appropriate Building Permits for a deck and shed that I built last year.

By way of a brief explanation, I offer the following: My home is an end-of-group and all end-of-group homes in the neighborhood have only ten feet of property on the side of the house. In 1985 I obtained Building Permit #75750 to build an addition on the back of the existing dwelling. However, this permit also approved an entrance/exit on the side of the house, which due to the grade of the yard is approximately 4'-6" above ground. Last year I replaced the stairs and platform with a 6'x12' deck and trellis. The trellis are so my wife can hang all her plants outside on nice days. They were not built to support a roof, nor do I ever intend to close them in. I thought I was still covered by the 1985 permit which approved the entrance/exit on the side.

With regard to the shed, I assumed that since nearly every end-of-group home has built or erected some sort of shed or structure on the side of their house, that to do the same I would not be in violation of any zoning laws or require a building permit. I built the shed in the dead space behind the deck, but ran out of money before I could find siding to match the addition. With my Federal Tax return I now have the money to buy the siding and complete the job. However, I recently received two stop work orders, HC-002861 and G-002862, informing me that building permits are required. The building inspector said the complainant wished to remain anonymous, but that he sounded like an elderly man.

91-62-A

Mr. J. Robert Haines
Zoning Commissioner

I spoke with Mr. Frank Robey who stated that his assistant, Ms. Donna Marison would look into the matter and advise me. Ms. Marison directed me to see a Mr. Rick Wisnom for assistance in applying for the building permits and to Mr. Carl Richards for assistance with any zoning questions.

Mr. Richards has been very helpful and a pleasure to work with. He stated that since my house was built prior to 1953 that I was okay with the zoning laws concerning open air structures and he signed approval for the deck permit #B053587. However, Mr. Richards informed me that even though every other end-of-group home has a shed on the side, I still must apply for a zoning variance.

Thus, I have respectfully applied for a zoning variance based on the following:

- * the space on which the shed was built is located in the dead space on the side of the house behind the deck
- * no other practical or reasonable use of this property space can be made
- * approval can be granted without any effect to public health, safety, and general welfare
- * since nearly every end-of-group home has built or erected some sort of shed or structure on the side, without obtaining a zoning variance I built my shed in good faith not knowing same was required

If denied and forced to remove the shed that we built, my wife and I would feel the victims of a great injustice. More than the financial loss involved, would be the feeling that our hard work, sweat, love, and pride for our home is in vain. Our faith and trust in our county government would be severely affected.

I thank you for your time and consideration given this matter.

Appreciatively,
Michael J. Cassizzi
Michael J. Cassizzi
288-0176

